FARAD CONTINUATION SHEET.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.4504/2005

Vilas s/o Dharmaji Bhavre

...Versus...

Shri Sudhakar Gram Vikas Pratishthan and others

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

CORAM: **B.P. DHARMADHIKARI, J.**
DATED : **15.12.2005.**

1. Heard Advocate Shri S.P. Kshirsagar for petitioner, Advocate Shri V.P. Panpalia for respondent nos.1 and 2 and Advocate Shri D.A. Sonwane for respondent no.4.

2. Grievance of Advocate Shri Kshirsagar

is that the School Tribunal has forced to present petitioner for withdrawal of appeal, when the petitioner was not willing to withdraw the appeal. He states that pursis dated 6.8.2004 was filed for that purpose, but that has been ignored and the Court has treated it as simply withdrawal pursis. Advocate Shri Panpalia and Advocate Shri Sonwane for respondents state that the impugned order dated 15.6.2005 is not passed on pursis dated 6.8.2004, but it is passed upon pursis dated 15.6.2005, the copy of which is produced by them for perusal today. Advocate Shri Sonwane points out that the order dated 8.9.2004 was passed by School Tribunal on pursis dated 6.8.2004 and said order was challenged in W.P. No.4891/2004 before this Court and this Court permitted petitioner to file appropriate compromise pursis only after

obtaining no objection from respondent no.4. Said no objection was not obtained and again an attempt was made to mislead the School Tribunal. According to both Counsel, therefore the impugned order does not call for any interference in the writ jurisdiction.

3. I have perused the prusis dated 6.8.2004 and also pursis dated 15.6.2005. The order dated 8.9.2004 was passed on pursis dated 6.8.2004 and on 15.6.2005 said pursis dated 6.8.2004 was not available because it was already dismissed by the School Tribunal on 8.9.2004 itself. The respondents seems to be correct in submitting that another pursis dated 15.6.2005 was filed by the present petitioner. Perusal of said pursis reveals that the appellant and his Counsel submitted that on account of compromise with management he does not want to file any written notes of

argument and wants to rely and refer appeal memo and also terms of compromise for disposal of appeal. The said pursis nowhere states that appeal should be disposed of in terms of compromise and does not request even for permission to withdraw appeal and also does not seek any orders in terms of compromise. In view of this pursis, the order passed thereupon treating the same as simple pursis for withdrawal of appeal cannot be sustained.

4. The School Tribunal could have heard the appellant before it on merits and could have passed appropriate orders on merits.

5. In view of this, the impugned order dated 15.6.2005 is hereby quashed and set aside. The appeal no.38/1998 is restored back to the file of Presiding Officer, School Tribunal,

Amravati. Petitioner/appellant is at liberty to argue the appeal finally on merits before the School Tribunal without insisting upon recording for any compromise between appellant and the management as alleged by him.

6. The appeal is of the year 1998. Hence, the petitioner shall argue the appeal finally and the School Tribunal shall decide it as early as possible or in any case within a period of three months from the date of communication of this order to it. Writ Petition is allowed. Rule made absolute in above terms. No costs.

JUDGE

SSW